

SEMINOLE COUNTY GOVERNMENT AGENDA MEMORANDUM

SUBJECT: Authorize Release of the Right of Way Utilization Permit Maintenance Bond for Ruby Court - Tropical Pools and Spas, Inc.

DEPARTMENT: Planning and Development **DIVISION:** Development Review

AUTHORIZED BY: Dori DeBord

CONTACT: Lee Shaffer

EXT: 7346

MOTION/RECOMMENDATION:

Authorize the release of the Ruby Court -Tropical Pools and Spas, Inc. Right-of-Way Utilization Permit Maintenance Bond #0FL0575589 in the amount of \$10,000.00 for the Ruby Court - Tropical Pools and Spas, Inc. road improvements.

District 1 Bob Dallari

Lee Shaffer

BACKGROUND:

Section 35.44 (e) of the Seminole County Land Development Code, concerning Additional Required Legal Submittals, required the Tropical Pools and Spas, Inc. project to have a Right-of-Way Utilization Maintenance Bond, specifically, Maintenance Bond #0FL0575589 for \$10,000.00 (Old Republic Surety), to insure against any significant degradation in operating conditions resulting from any defective work covered by this bond. Staff conducted a two year maintenance inspection for this project located 587 Ruby Court and determined the improvements to be satisfactory.

STAFF RECOMMENDATION:

Staff recommends the Board authorize the release of the Ruby Court -Tropical Pools and Spas, Inc. Right of Way Utilization Permit Maintenance Bond #0FL0575589 in the amount of \$10,000.00 for the Ruby Court Right-of-Way – Tropical Pools and Spas, Inc. road improvements.

ATTACHMENTS:

1. ROW Utilization Permit Maintenance Bond
2. Power of Attorney

Additionally Reviewed By:

☒ County Attorney Review (Kathleen Furey-Tran)

RIGHT-OF-WAY USE PERMITTING

RIGHT-OF-WAY UTILIZATION PERMIT MAINTENANCE BOND
(Streets, Curbs, Storm Drains)

KNOW ALL MEN BY THESE PRESENTS:

That we Tropical Pools & Spas, Inc., whose address is 587 Ruby Court, Maitland, FL 32751, hereinafter referred to as "PRINCIPAL" and Old Republic Surety, hereinafter referred to as "SURETY" are held and firmly bound unto Seminole County, a political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 East First Street, Sanford, Florida 32771, hereinafter referred to as the COUNTY in the sum of \$ 10,000.00 for the payment of which we bind ourselves, heirs, executors, successors and assigns, jointly and severally, firmly by these presents:

WHEREAS, PRINCIPAL has constructed certain improvements, including streets, curbs, storm drains and other appurtenances in that certain public right-of-way known as 587 Ruby Court, recorded in Plat Book 13, Page(s) 38, Public Records of Seminole County, Florida; and

WHEREAS, the aforesaid improvements were made pursuant to certain plans and specifications dated April 6, 2007, and filed with the County Engineer of Seminole County; and

WHEREAS, PRINCIPAL is obligated to protect the COUNTY against any defects resulting from faulty materials or workmanship of said improvements for a period of two (2) years from April 6, 2007;

NOW, THEREFORE, the condition of this obligation is such that if PRINCIPAL shall promptly and faithfully protect the COUNTY against any defects resulting from faulty materials or workmanship of the aforesaid improvements for a period of (2) years from April 6, 2007, then this obligation shall be null and void, otherwise it shall remain in full force and effect.

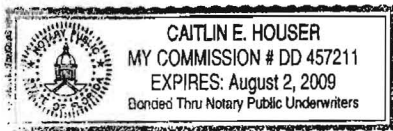
The County Engineer shall notify the PRINCIPAL in writing of any defect for which the PRINCIPAL is responsible and shall specify in said notice a reasonable period of time within which PRINCIPAL shall have to correct said defect.

The SURETY unconditionally covenants and agrees that if the PRINCIPAL fails to perform, within the time specified, the SURETY, upon 30 days written notice from COUNTY, or its authorized agent or officer, of the default will forthwith correct such defect or defects and pay the cost thereof, including, but not limited to engineering, legal and contingent cost. Should the SURETY fail or refuse to correct said defects, the COUNTY, in view of the public interest, health, safety, welfare and factors involved, and the consideration in approving the said permit shall have the right to resort to any and all legal remedies against the PRINCIPAL and SURETY and either, both at law and in equity, including specifically, specific performance to which the PRINCIPAL and SURETY unconditionally agree.

The PRINCIPAL and SURETY further jointly and severally agree that the COUNTY at its option, shall have the right to correct said defects resulting from faulty materials or workmanship, or, pursuant to public advertisement and receipt of bids, caused to be corrected any defects or said defects in case the PRINCIPAL shall fail or refuse to do so, and in the event the COUNTY should exercise and give effect to such right, the PRINCIPAL and the SURETY shall be jointly and severally hereunder to reimburse the COUNTY the total cost thereof, including, but not limited to, engineering, legal and contingent cost, together with any damages either direct or consequent which may be sustained on account of the failure of the PRINCIPAL to correct said defects.

IN WITNESS WHEREOF, the Principal and the Surety have executed these presents this the 3rd day of May, 2007.

Name and Address:
Adam Alstott
587 Ruby Court
Maitland, FL 32751



Tropical Pools & Spas, Inc. (Seal)

PRINCIPAL

By: [Signature]

Its: President

(If a corporation)

Attest: [Signature]

Its: _____

(If a corporation)

Name and Address:

Cathy A Baker
Insurance by Ken Brown Inc
P O Box 948117
Maitland, FL 32794-8117

Old Republic Surety (Seal)

SURETY

By: [Signature]

Its: _____

(Its Attorney-in-Fact)

Attest: [Signature]

(App E, LDC, through Supp 16).

KNOW ALL MEN BY THESE PRESENTS: That OLD REPUBLIC SURETY COMPANY, a Wisconsin stock insurance corporation, does make, constitute and appoint:

KENNETH M. BROWN, CATHY A. BAKER, MARGARET E. SMITH, OF ORLANDO, FL

its true and lawful Attorney(s)-in-Fact, with full power and authority, not exceeding \$5,000,000, for and on behalf of the company as surety, to execute and deliver and affix the seal of the company thereto (if a seal is required), bonds, undertakings, recognizances or other written obligations in the nature thereof, (other than bail bonds, bank depository bonds, mortgage deficiency bonds, mortgage guaranty bonds, guarantees of installment paper and note guaranty bonds, self-insurance workers compensation bonds guaranteeing payment of benefits, asbestos abatement contract bonds, waste management bonds, hazardous waste remediation bonds or black lung bonds), as follows:

ALL WRITTEN INSTRUMENTS IN AN AMOUNT NOT TO EXCEED AN AGGREGATE OF TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000)----- FOR ANY SINGLE OBLIGATION, REGARDLESS OF THE NUMBER OF INSTRUMENTS ISSUED FOR THE OBLIGATION.

and to bind OLD REPUBLIC SURETY COMPANY thereby, and all of the acts of said Attorneys-in-Fact, pursuant to these presents, are ratified and confirmed. This document is not valid unless printed on colored background and is multi-colored. This appointment is made under and by authority of the board of directors at a special meeting held on February 18, 1982. This Power of Attorney is signed and sealed by facsimile under and by the authority of the following resolutions adopted by the board of directors of the OLD REPUBLIC SURETY COMPANY on February 18, 1982.

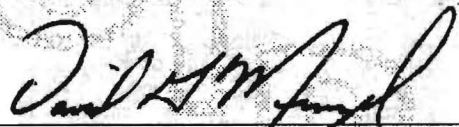
RESOLVED that, the president, any vice-president, or assistant vice president in conjunction with the secretary or any assistant secretary, may appoint attorneys-in-fact or agents with authority as defined or limited in the instrument evidencing the appointment in each case, for and on behalf of the company to execute and deliver and affix the seal of the company to bonds, undertakings, recognizances, and suretyship obligations of all kinds; and said officers may remove any such attorney-in-fact or agent and revoke any Power of Attorney previously granted to such person.

RESOLVED FURTHER, that any bond, undertaking, recognizance, or suretyship obligation shall be valid and binding upon the Company

- (i) when signed by the president, any vice president or assistant vice president, and attested and sealed (if a seal be required) by any secretary or assistant secretary; or
- (ii) when signed by the president, any vice president or assistant vice president, secretary or assistant secretary, and countersigned and sealed (if a seal be required) by a duly authorized attorney-in-fact or agent; or
- (iii) when duly executed and sealed (if a seal be required) by one or more attorneys-in-fact or agents pursuant to and within the limits of the authority evidenced by the Power of Attorney issued by the company to such person or persons.

RESOLVED FURTHER, that the signature of any authorized officer and the seal of the company may be affixed by facsimile to any Power of Attorney or certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligations of the company; and such signature and seal when so used shall have the same force and effect as though manually affixed.

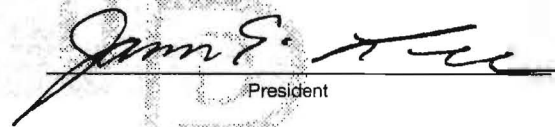
IN WITNESS WHEREOF, OLD REPUBLIC SURETY COMPANY has caused these presents to be signed by its proper officer, and its corporate seal to be affixed this 22ND day of MAY, 2006.



Assistant Secretary



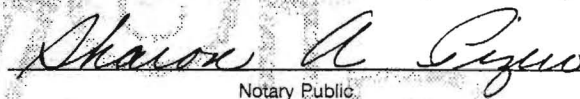
OLD REPUBLIC SURETY COMPANY



President

STATE OF WISCONSIN, COUNTY OF WAUKESHA - SS

On this 22ND day of MAY, 2006, personally came before me, JAMES E. LEE and DAVID G. MENZEL to me known to be the individuals and officers of the OLD REPUBLIC SURETY COMPANY who executed the above instrument, and they each acknowledged the execution of the same, and being by me duly sworn, did severally depose and say; that they are said officers of the corporation aforesaid, and that the seal affixed to the above instrument is the seal of the corporation, and that said corporate seal and their signatures as such officers were duly affixed and subscribed to the said instrument by the authority of the board of directors of said corporation.



Notary Public

My commission expires: 01/18/2009

CERTIFICATE

I, the undersigned, assistant secretary of the OLD REPUBLIC SURETY COMPANY, a Wisconsin corporation, CERTIFY that the foregoing and attached Power of Attorney remains in full force and has not been revoked; and furthermore, that the Resolutions of the board of directors set forth in the Power of Attorney, are now in force.

92-2963



Signed and sealed at the City of Brookfield, WI this 30th day of May 2007

INSURANCE BY KEN BROWN, INC.



Assistant Secretary